

DOCKET FILE COPY ORIGINAL RECEIVED

OCT 30 1997

FCC MAIL ROOM

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

In the Matter of

Preemption of State and Local Zoning and  
Use Restrictions on the Siting,  
Placement and Construction of Broadcast  
Station Transmission Facilities

)  
)  
) MM Docket No. 97-182 Land  
)  
)  
)  
)

COMMENTS OF BUTTERFIELD BROADCASTING AND THE GROWING  
CHRISTIAN FOUNDATION

This comment is in response to the Federal Communications Commission Notice of Proposed Rulemaking issued on August 19, 1997 concerning local government involvement in the construction of new broadcast transmission towers.

The market is Yakima, Washington. The Growing Christian Foundation proposes to construct a 300 foot tall tower to mount the antenna for their new FM radio station. The site upon which this tower is to be located is at an existing tower site owned by Butterfield Broadcasting Corporation.

The Growing Christian Foundation has received a Construction Permit (BPED-940901-MA and Modification BMPED-970423-IA ) from the Federal Communications Commission to construct radio station KYPL-FM 91.1 at Yakima, Washington. The transmission site is to be on an existing site owned by Butterfield Broadcasting licensee of KXDD-FM. The Growing Christian

No. of Copies rec'd. 029  
LHM/ABODE

Foundation proposes a separate 300' tall tower for their antenna. On July 1, 1997 the FAA issued their determination (97-ANM 0548-DE) allowing a 300' tall painted and lighted tower at this location.

When representatives of The Growing Christian Foundation and Butterfield Broadcasting went to the Yakima County Planning Department to apply for a Special Use Permit, we were advised, that although this procedure would normally be handled internally by staff, because the Washington State Department of Transportation, Aviation Division had filed a two page comment requesting their involvement in the process, that the County was recommending a Public Hearing. A Public Hearing has been scheduled for November 20, 1997. The Hearing Examiner issues his recommendation 20 days after the hearing. The Public then has 15 days to file for a reconsideration. If no filing for a reconsideration is received, a Building Permit can be issued. The Growing Christian Foundation had expected construction to be completed by the end of October 1997. With the Public Hearing Process the soonest a permit can be issued is in January 1998. The usual winter weather patterns on Rattlesnake Ridge in Yakima will delay any construction until late March or early April 1998. Continuing delays will result in additional construction costs, extensions of construction permits, and the delay of a new radio service to the public.

A representative of Butterfield Broadcasting contacted the Manager of Aviation Planning for the Washington State Department of Transportation, Theresa Smith, for an explanation of the State's involvement in the location of a broadcast tower. Ms. Smith indicated that with the passage of Washington State Senate Bill 6422, the State of Washington would be involved in the location of all towers near airports. Butterfield Broadcasting indicated to Ms. Smith that the Federal Aviation Administration had already approved of the tower. She said she was aware of that determination, but that the State was concerned that such a tall tower would provide an obstruction to the Yakima Airport. She indicated that she had worked at that airport, and that the tower site we had selected was particularly hazardous to navigation. She asked if we could move the location somewhere else. Butterfield indicated that it was not aware of the State laws and regulations concerning the construction of Broadcast Towers, and that it would have to conduct additional research before providing the State of Washington with additional information.

Butterfield Broadcasting has obtained a copy of the documents the State of Washington Department of Transportation claims gives them the authority to regulate the construction of Broadcast Towers, along with a form they have asked us to complete and submit with the title: Notice of Construction of Obstruction to Airspace. In addition, Butterfield Broadcasting has received a copy of the two page letter requesting involvement in the decision making process on this tower location sent to The Yakima County Planning Department, the Department of

Community, Trade and Economic Development, the Yakima County Board of Commissioners, the Mayor of the City of Yakima, the Mayor of the City of Union Gap and to the Yakima Airport Manager. These documents are currently being reviewed by legal counsel.

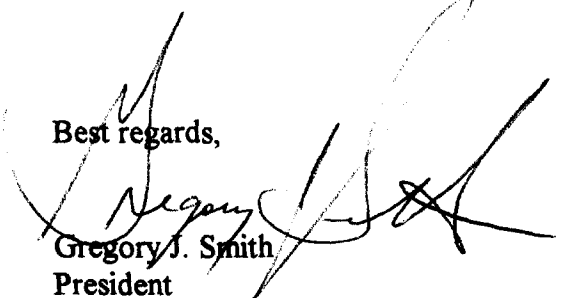
We have been involved in the construction of four broadcast towers in Washington State in the past five years, and this is the first time the State of Washington has contended we needed to comply with their regulations in addition to those of the local land use agency (County) and the FAA. Obviously, this added layer of regulators will add to the time and expense of constructing broadcasting towers. In addition, such involvement may result in the denial of tower construction permits issued by the F.C.C. and F.A.A.

Butterfield Broadcasting has an additional interest in this proceeding as we have been in conversations with the Yakima Television broadcasters concerning the construction of a 400' tower for digital Television at this site. If The Growing Christian Foundation is denied a permit to construct a 300' tower at this location, we will not be able to construct a 400' television tower either.

The Growing Christian Foundation complied with federal regulations in obtaining Construction permits from the FCC and the FAA. Butterfield Broadcasting and The Growing Christian Foundation have demonstrated to Yakima County from a land use position, this is an ideal

location for the tower in that there are currently four additional towers in this vicinity. That the site is in a remote uninhabited area with restricted access. With the entry of Washington State into the tower siting process we are now put in a position of satisfying two separate government agencies for airspace obstruction compliance. We are concerned that we could be stuck between the separate and perhaps conflicting regulations of two government agencies for several years.

Best regards,



Gregory J. Smith  
President  
Butterfield Broadcasting